

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)	
)	
Requirements for Digital Television Receiving)	ET Docket No. 05-24
Capability)	

COMMENTS OF THE ASSOCIATION OF PUBLIC TELEVISION STATIONS

The Association of Public Television Stations (“APTS”)¹ hereby submits
Comments in the above captioned proceeding.

The FCC has mandated the phased-in inclusion of over-the-air digital tuners in all television sets with reception capability over a certain size.² Under the phase-in schedule: (1) 50% of TVs 36" and larger must include tuners by July 1, 2004—100% by July 1, 2005; (2) 50% of TVs 25" to 35" must have tuners by July 1, 2005—100% by July 1, 2006; (3) 100% of TVs 13"-24" must include tuners by July 1, 2007; and (4) 100% of TV interface devices such as VCRs and DVD players/recorders must include DTV tuners by July 1, 2007. The Commission has also mandated that any set

¹ APTS is a nonprofit organization whose members comprise the licensees of nearly all of the nation’s 357 CPB-qualified noncommercial educational television stations. APTS represents public television stations in legislative and policy matters before the Commission, Congress, and the Executive Branch and engages in planning and research activities on behalf of its members.

² *In re* Review of the Comm’n’s Rules and Policies Affecting the Conversion to DTV, *Second Report and Order and Second Memorandum Opinion and Order*, 17 FCC Rcd. 15978 (2002), *aff’d* Consumer Elecs. Ass’n v. FCC, 347 F.3d 291 (D.C. Cir. 2003).

manufactured in accordance with the recently approved one-way “plug and play” protocol should include over-the-air digital tuners.³

On November 5, 2004, the Consumer Electronics Association and the Consumer Electronics Retailers Coalition (CEA-CERC) submitted a Petition for Rulemaking requesting that the Commission eliminate the scheduled July 1, 2005 date for 50 percent of new TV receivers with screen sizes 25 to 36 inches to include DTV reception capability and advance the date on which 100 percent of such receivers must include that capability by three months, from July 1, 2006 to March 1, 2006.⁴

APTS supports the retention of the current deadlines and believes that the required introduction of DTV tuner capability in these new sets will encourage over-the-air DTV reception among consumers. While the adoption of DTV products is increasing at a rapid pace, with a projected 11 million total DTV products expected to be shipped in 2005 (up from 4 million in 2003),⁵ most consumers purchasing DTV products buy DTV monitors that are not able to receive and display over-the-air TV signals.⁶ At present, it is estimated that only two million households or fewer have DTV sets with an integrated

³ *In re* Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20885, ¶ 34 (2003).

⁴ See NPRM, ¶ 1.

⁵ “[S]ales of DTV equipment are rising rapidly, with approximately 1.4 million DTV units sold in 2001, 2.5 million in 2002, 4 million 2003, and 7.2 million in 2004. CEA projects 10.77 million DTV units will be sold in 2005, 16.77 million in 2006, 23.25 million in 2007 and 27.05 million in 2008.” *Federal Communications Commission Media Bureau Staff Report Concerning Over-the-Air Broadcast Television Viewers*, 2005 FCC LEXIS 1332, ¶ 27 (2005) (citations omitted) (hereinafter “FCC OTA Staff Report”). See also Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eleventh Annual Report, FCC 05-13, ¶ 87 (Jan. 14, 2005) (2005 Video Competition Report,); and Consumer Electronics Association, Press Release, *Super Bowl XXXIX Boosts Digital Television Sales* (Jan. 28, 2005) (7.2 million DTV products sold in 2004).

⁶ FCC OTA Staff Report, ¶ 27.

tuner.⁷ A year ago, the figure (including stand-alone set-top digital receivers) was only slightly less.⁸ In light of the above, APTS remains concerned that a substantial loophole exists in Commission rules, to the extent that consumers are encouraged to purchase monitors without any tuner whatsoever. Current evidence therefore indicates that it is too early to start rolling back the tuner requirement deadlines.

Moreover, APTS views with concern reports that even those sets with required ATSC tuners may be lacking ATSC decoders required to achieve full over-the-air reception capability.⁹ If such practices are occurring, this would surely violate the spirit and intent of the regulation as passed. If these reports are correct, the practice of omitting ATSC decoders should be prohibited through appropriate modifications to the Commission's rules forthwith.

⁷ 2005 Video Competition Report, at n. 409. *But see* FCC OTA Staff Report, at, n.4 (2005) (citing NAB for the figure that only 177,000 television households view digital television exclusively over the air).

⁸ *See also* Press Release, Consumer Elecs. Ass'n, CEA Reports More than 1.2 Million Over-the-Air DTV Tuners Sold to Date, at http://www.ce.org/press_room/press_release_detail.asp?id=10417 (Feb. 23, 2004). In June of 2004, it was reported that only 1.7 million households have either integrated sets or set-top boxes capable of receiving and decoding digital broadcast signals. Eric A. Taub, *High-Maintenance TV*, N.Y. TIMES, June 24, 2004, at G1.

⁹ *See* Mark Schubert, "By Any Other Name," DigitalTelevision.com (November 3, 2004), available at: http://www.digitaltelevision.com/articles/article_833.shtml.

Conclusion

The Commission should retain its current schedule for required ATSC tuners in all sets of a certain size that possess NTSC tuner capabilities and should ensure that where ATSC tuners are present, ATSC reception is possible through the inclusion of decoders and other related features.

Respectfully submitted,

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April 18, 2005